UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/088,727	06/02/1998	MICHAEL FRY	36-1227	2084

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EXAMINER
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ART UNIT	PAPER NUMBER
2141	34

DATE MAILED: 01/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/088,727	FRY ET AL.
	Examiner	Art Unit
	Paul H Kang	2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _23 October 2003_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-11_ is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) _3 and 9_ is/are allowed.

6)☒ Claim(s) _1,2,4-8,10 and 11_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All b)☐ Some * c)☐ None of:

         1.☐ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____.

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application)
since a specific reference was included in the first sentence of the specification or in an Application Data Sheet.
37 CFR 1.78.

     a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific
reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

2.   Claims 1-2, 4-8 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Katseff et al., US Pat. No. 6,075,796 in view of Iyengar, US Pat. No. 5,961,601.

3.   As to claims 1, 4, 6, 7 and 11, Katseff discloses:

a World Wide Web (WWW) server, a client computer, at least one dynamic proxy server

computer and a method of transmitting data from a first computer to a client computer network

(figure 4 and col. 1, line 16 – col. 2, line 55), the system and method further comprising,

said dynamic proxy server computer being located in a computer network such that it is

in a communications route intermediate a server computer and a client computer (figure 4, POP

84),

the dynamic proxy server computer being configured to receive data transmitted in a first

data format from said server computer, to transform received data to a second data format from

said first data format without substantially changing the information content of said data and to

transmit the transformed said data to the client computer in said second data format (col. 2, line

19-51 and col. 5, line 63 – col. 6, line 55).

However, Katseff does not explicitly teach said dynamic proxy server computer being

configured to run a proxylet for transforming data, which proxylet is referred to by an address

within a data store connected to the computer network from where the proxylet is available for

downloading by server computers connected to the computer network, wherein the transforming

performed by the dynamic proxy server computer is determined by the content of a protocol of

the proxylet dynamically downloaded from a third server computer. In Katseff, the translator is

stored on the proxy server (col. 2, line 19-51 and col. 5, line 63 – col. 6, line 55).

In the same field of endeavor, Iyengar teaches a system which dynamically downloads a

CGI converter program from a remote computer to perform data conversions (Iyengar, col. 16,

lines 30-42). It would have been obvious to one having ordinary skill in the art at the time the

invention was made to have incorporated the downloadable translator, as taught by Iyengar, into

the transformation system of Katseff for the purpose of increasing the efficiency by distributing

tasks/storage, as well as enhancing adaptability/upgradeability by providing access to remote

storage.

4.   As to claims 2 and 8, Katseff-Iyengar teaches a system wherein said data is transmitted

from the first server computer to the second server computer using a first transport protocol

(UDP) and the transformed data is transmitted from the second server computer to the client

using a second transport protocol (TCP) (Katseff, col. 5, line 63 – col. 6, line 55).

5.   As to claim 5 and 10, Katseff-Iyengar discloses a system wherein said first server

computer is a WWW server (Katseff, abstract and figure 4).

Allowable Subject Matter

6.   Claims 3 and 9 were allowed in previous office communications. Claims 3 and 9 recite

transmitting data from the first computer server to the second computer server using TCP, data

transformed by the second server, and the transformed data is transmitted to the client computer

using UDP. The prior art does not teach this limitation. The prior art teaches transmitting via

UDP from the first server to the second server computer, transforming the data, and transmitting

the transformed data to the client via TCP (see rejection above for claims 2 and 8).

Response to Amendment

7.   Applicant's arguments with respect to claims 1-2, 4-8, and 10-11 have been fully

considered but are not persuasive. The applicant argues in substance that the prior art of record

fails to teach the newly added limitation "proxylet" for transforming data which is dynamically

downloaded by proxy server computers. Applicant argues that the prior art "merely discloses an

applet being downleaded to and executed by a client terminal." Remarks, page 10. The applicant

defines "proxylets" as "small programs intended to run on proxy servers" and suggests that the

prior art does not "provide any facilities whatsoever for permitting proxylets to be dynamically

downloaded to a dynamic proxy server..." Id.

In response to applicant's argument that the prior art's teaching of downloading

transforming applets are not intended for use specifically for proxy servers, a recitation of the

intended use of the claimed invention must result in a structural difference between the claimed

invention and the prior art in order to patentably distinguish the claimed invention from the prior

art. If the prior art structure is capable of performing the intended use, then it meets the claim.

In a claim drawn to a process of making, the intended use must result in a manipulative

difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re*

Otto, 136 USPQ 458, 459 (CCPA 1963).

Therefore, "proxylet" as claimed, without resulting in structural differences in order to

run on proxy servers, are merely small programs. Here, Katseff teaches the method of converting

data from one format to another at a proxy server. Iyengar teaches dynamically downloading

transformation programs used to convert data. However, the teachings of Iyengar is not limited

only to use by client computers. Iyengar's applets may be implemented by proxy servers as well

as client computers with no structural differences in the applet. Therefore, the invention as

claimed is not patentably distinct from the prior art of record.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Paul H Kang whose telephone number is (703) 308-6123. The

examiner can normally be reached on 9 hour flex. First Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Rupal Dharia can be reached on (703) 305-4003. The fax phone number for the

organization where this application or proceeding is assigned is (703) 746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703) 305-3900.

Paul H Kang
Examiner
Art Unit 2141